



August 3, 2017

Marlene H. Dortch
Secretary
Federal Communications Commission
455 12th Street, SW
Washington, DC 20554

Re: *Ex Parte* disclosure pursuant to 47 C.F.R. § 1.1206(b) in WC Docket No. 17-84

Dear Ms. Dortch:

On August 1, 2017, Debbie Goldman and Brian Thorn of the Communications Workers of America (CWA) and Harold Feld and Yosef Getachew of Public Knowledge met to discuss the above-referenced proceeding with Terri Natoli, Adam Copeland, Michele Berlove, Daniel Kahn, Zach Ross, Rodney McDonald, David Brody, John Visclosky, and Timothy Graham of the Federal Communications Commission's Wireline Competition Bureau.

In our meeting, CWA and PK urged the Commission to preserve its current copper retirement and notification rules, maintain the Functional Test as required by Section 214(a) of the Communications Act, and narrowly interpret the Commission's preemption authority under Section 253. The participants expressed their concern that the proceeding docket does not support the Commission's presumption that streamlining the copper retirement and notification rules would accelerate wireline broadband deployment and that the Commission neither articulates a policy justification nor conducts an economic analysis to warrant its proposals. The participants strongly support retaining *de facto* retirement as part of the Commission's copper retirement definition to protect consumers during the transition from copper to fiber networks and incentivize providers to upgrade their networks.

Further, the participants expressed concern over the Commission's Request for Comment to eliminate the Functional Test as required by Section 214(a), reiterating their arguments that the use of the term "service" under Section 214(a) has long been understood to extend beyond the four corners of the tariff both from statutory interpretation and the practical application of Section 214. When interpreting Section 214(a), including in previous discontinuance proceedings, the Commission has consistently interpreted the term "service" to mean the subject of public convenience and necessity, not merely those services defined by the tariff.

In addition, the participants discussed the scope of Section 253 as it pertains to the Commission's Notice of Inquiry to preempt state laws. They explained that the role of Section 253 is not a general grant of authority to promote or streamline broadband

deployment. Rather, the plain language of Section 253(a) only allows the Commission to preempt laws which "prohibit or have the effect of prohibiting" the deployment of telecommunications service. Section 253(b) and (c) preserve broad authority for states and localities to implement policies governing telecommunications service. The participants reiterated the laws the Commission proposes to preempt fall within state and local authority under Section 253.

Sincerely,

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